

This Page Is Inserted by IFW Operations  
and is not a part of the Official Record

## **BEST AVAILABLE IMAGES**

Defective images within this document are accurate representations of the original documents submitted by the applicant.

Defects in the images may include (but are not limited to):

- BLACK BORDERS
- TEXT CUT OFF AT TOP, BOTTOM OR SIDES
- FADED TEXT
- ILLEGIBLE TEXT
- SKEWED/SLANTED IMAGES
- COLORED PHOTOS
- BLACK OR VERY BLACK AND WHITE DARK PHOTOS
- GRAY SCALE DOCUMENTS

**IMAGES ARE BEST AVAILABLE COPY.**

**As rescanning documents *will not* correct images,  
please do not report the images to the  
Image Problem Mailbox.**

COMBINED DECLARATION AND POWER OF ATTORNEY  
FOR UTILITY PATENT APPLICATION

AS A BELOW-NAMED INVENTOR, I HEREBY DECLARE THAT:

My residence, post office address and citizenship are as stated below next to my name.

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if more than one name is listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled: *Dwf4* POLYNUCLEOTIDES, POLYPEPTIDES AND USES THEREOF the specification of which

\_\_\_ is attached hereto  
X was filed on February 11, 2000

and assigned Serial No. 09/502,426.

I HAVE REVIEWED AND UNDERSTAND THE CONTENTS OF THE ABOVE-IDENTIFIED SPECIFICATION, INCLUDING THE CLAIMS, AS AMENDED BY ANY AMENDMENT REFERRED TO ABOVE.

I acknowledge and understand that I am an individual who has a duty to disclose information which is material to the patentability of the claims of this application in accordance with Title 37, Code of Federal Regulations, §§ 1.56(a) and (b) which state:

(a) A patent by its very nature is affected with a public interest. The public interest is best served, and the most effective patent examination occurs when, at the time an application is being examined, the Office is aware of and evaluates the teachings of all information material to patentability. Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section. The duty to disclose information exists with respect to each pending claim until the claim is canceled or withdrawn from consideration, or the application becomes abandoned. Information material to the patentability of a claim that is canceled or withdrawn from consideration need not be submitted if the information is not material to the patentability of any claim remaining under consideration in the application. There is no duty to submit information which is not material to the patentability of any existing claim. The duty to disclose all information known to be material to patentability is deemed to be satisfied if all information known to be material to patentability of any claim issued in a patent was cited by the Office or submitted to the Office in the manner prescribed by §§ 1.97(b)-(d) and 1.98. However, no patent will be granted on an application in connection with which fraud on the Office was practiced or attempted or the duty of disclosure was violated

through bad faith or intentional misconduct. The Office encourages applicants to carefully examine:

(1) prior art cited in search reports of a foreign patent office in a counterpart application, and

(2) the closest information over which individuals associated with the filing or prosecution of a patent application believe any pending claim patentably defines, to make sure that any material information contained therein is disclosed to the Office.

(b) Under this section, information is material to patentability when it is not cumulative to information already of record or being made of record in the application, and

(1) It establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim; or

(2) It refutes, or is inconsistent with, a position the applicant takes in:

(i) Opposing an argument of unpatentability relied on by the Office,

or

(ii) Asserting an argument of patentability.

A prima facie case of unpatentability is established when the information compels a conclusion that a claim is unpatentable under the preponderance of evidence, burden-of-proof standard, giving each term in the claim its broadest reasonable construction consistent with the specification, and before any consideration is given to evidence which may be submitted in an attempt to establish a contrary conclusion of patentability.

I do not know and do not believe this invention was ever known or used in the United States of America before my or our invention thereof, or patented or described in any printed publication in any country before my or our invention thereof or more than one year prior to said application. This invention was not in public use or on sale in the United States of America more than one year prior to this application. This invention has not been patented or made the subject of an inventor's certificate issued before the date of this application in any country foreign to the United States of America on any application filed by me or my legal representatives or assigns more than six months prior to this application.

I hereby claim priority benefits under Title 35, United States Code § 119(e)(1) of any United States provisional application(s) for patent as indicated below and have also identified below any application for patent on this invention having a filing date before that of the application for patent on which priority is claimed:

<u>Application No.</u>	<u>Date of Filing</u> <u>(day/month/year)</u>	<u>Priority</u> <u>Claimed</u>
60/119,657	11 February 1999	Yes <u>X</u> No <u>  </u>
60/119,658	11 February 1999	Yes <u>X</u> No <u>  </u>

I hereby appoint the following attorneys and agents to prosecute that application and to transact all business in the Patent and Trademark Office connected therewith and to file, to prosecute and to transact all business in connection with all patent applications directed to the invention:

Roberta L. Robins, Reg. No. 33,208  
Dahna S. Pasternak, Reg. No. 41,411  
Vandana Date, Reg. No. 38,675  
Gary R. Fabian, Ph.D., Reg. No. 33,875

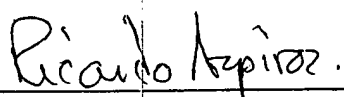
Address all correspondence to: Roberta L. Robins at

ROBINS & ASSOCIATES  
90 Middlefield Road, Suite 200  
Menlo Park, CA 94025.

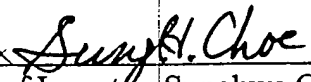
Address all telephone calls to: Roberta L. Robins at (650) 325-7812.

This appointment, including the right to delegate this appointment, shall also apply to the same extent to any proceedings established by the Patent Cooperation Treaty.

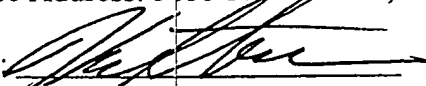
I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under § 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Signature:   
Full Name of Inventor: Ricardo AZPIROZ  
Citizenship: Mexico  
Residence: Dallas, TX  
Post Office Address: 6634 Winding Rose Trail, Dallas, TX 75252

Date 20 Oct. 2000

Signature:   
Full Name of Inventor: Sunghwa CHOE  
Citizenship: Korea  
Residence: Tucson, AZ  
Post Office Address: 5855 North Court, No. 4211, Tucson, AZ 85750

Date 10 Oct 2000

Signature:   
Full Name of Inventor: Kenneth A. FELDMANN  
Citizenship: US  
Residence: Newbury Park, CA  
Post Office Address: 3806 Calle Mazatlan, Newbury Park, CA 91320-1927

Date 10 Oct 00

**COPY**

Attorney's Docket No.: 11696-070001 / 2008-55300-US-U-00001.01

UA98-040

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Ricardo Azpiroz et al.                      Art Unit : 1638  
Serial No. : 09/502,426                                      Examiner : Ashwin Mehta  
Filed : February 11, 2000  
Title : DWF4 POLYNUCLEOTIDES, POLYPEPTIDES AND USES THEREOF

Commissioner for Patents  
Washington, D.C. 20231

**REVOCATION AND NEW POWER OF ATTORNEY**

Under 37 C.F.R. §3.73(b) THE ARIZONA BOARD OF REGENTS ON BEHALF OF THE UNIVERSITY OF ARIZONA, certifies that it is the assignee of 100% of the right, title and interest in the patent application identified above by virtue of:

An assignment from the inventors of the patent application identified above. The assignment was recorded in the Patent and Trademark Office at Reel 011062 , Frame 0388 on **October 23, 2000.**

In accordance with 37 C.F.R. Section 1.36, M.P.E.P. Section 402.05 and 402.07, please revoke any existing Powers of Attorney, if any, and appoint the following attorneys and/or patent agents to prosecute this application and to transact all business in the Patent and Trademark Office in connection therewith:

**CERTIFICATE OF MAILING BY FIRST CLASS MAIL**

I hereby certify under 37 CFR §1.8(a) that this correspondence is being deposited with the United States Postal Service as first class mail with sufficient postage on the date indicated below and is addressed to the Commissioner for Patents, Washington, D.C. 20231.

Date of Deposit

February 6, 2003

Signature

Lisa Johnson

Lisa Johnson

Typed or Printed Name of Person Signing Certificate

Applicant : Ricardo Azpiroz et al.  
Serial No. : 09/502,426  
Filed : February 11, 2000  
Page : 2

Attorney's Docket No.: 11696-070001 / 2008-55300-  
US-U-00001.01

Dorothy P. Whelan, Reg. No. 33,814  
Monica McCormick Graham, Reg. No. 42,600  
J. Patrick Finn III, Reg. No. 44,109  
H. Sanders Gwin Jr., Reg. No. 33,242  
Greg H. Gardella, Reg. No. 46,045  
Raymond R. Berdie, Reg. No. 50,769  
John A. Dragseth, Reg. No. 36,732  
Elizabeth N. Kaytor, Reg. No. P-53,103  
Ling-Fong Chung, Reg. No. 36,482

Mark S. Ellinger, Reg. No. 34,812  
Ronald C. Lundquist, Reg. No. 37,875  
Richard J. Anderson, Reg. No. 36,723  
M. Angela Parsons, Reg. No. 44,282  
Arlene L. Hornilla, Reg. No. 44,776  
Teresa A. Lavoie, Reg. No. 42,782  
Karen B. Geahigan, Reg. No. P-52,936  
Chad A. Hanson, Reg. No. 44,737  
Stephen R. Schaefer, Reg. No. 37,927

Please direct all correspondence in this case to:



26191

Respectfully submitted,

Date: 1/30/03

Signature

Richard A. Haney Jr., Director  
Office of Research & Contract Analysis

\_\_\_\_\_  
Typed or Printed Name

\_\_\_\_\_  
Title

Fish & Richardson P.C., P.A.  
60 South Sixth Street  
Suite 3300  
Minneapolis, MN 55402  
Telephone: (612) 335-5070  
Facsimile: (612) 288-9696